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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,370	01/15/2002	Dennis J. Michaelson	STES 105	7535
21658	7590	12/15/2005	EXAMINER	
DYKAS, SHAVER & NIPPER, LLP P.O. BOX 877 BOISE, ID 83701-0877			CHORBAJI, MONZER R	
			ART UNIT	PAPER NUMBER
			1744	
DATE MAILED: 12/15/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/050,370

Applicant(s)

MICHAELSON ET AL.

Examiner

MONZER R. CHORBAJI

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1, 18 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 18 and 21-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

**This non-final action is in response to the amendment received on 08/15/2005**

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 18, 21-22 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Wittrock et al (U.S.P.N. 5,482,067).

With respect to claims 18 and 21, the Wittrock reference discloses a double hinge (figure 2:40, 14 and 12) for connecting top cover (figure 2:12) to a rectangular box (figure 2:14) having opposing side walls, fixed flat bottom wall (unlabeled bottom wall of 14 in figure 2), end walls and a hinged top cover (figure 2:12). The double hinge includes a first horizontally oriented hinge (figure 2:62) dividing the end wall (unlabeled end wall of cassette 14 in figure 2) into upper (figure 2, unlabeled upper part of bottom 14) and lower (figure 2, unlabeled lower part of bottom 14) halves (i.e., portions) and a second hinge (figure 2:60) connecting the upper half (figure 2, unlabeled upper part of bottom 14) of the end wall to the top cover (figure 2:62, 42 and 60) so as to permit the top cover to lay flat upon the same surface that the bottom wall rests (figure 2:14 and 12).

With respect to claims 22 and 24, the Wittrock reference teaches that the double hinge is configured to allow the top cover to be folded beneath the flat bottom wall

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(col.5, lines 41-43) and the first and second hinges are made approximately equal in their dimensions (figure 4:46 and 48).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wittrock et al (U.S.P.N. 5,482,067) in view of Dabich (U.S.P.N. 4,535,908).

With respect to claim 1, the Wittrock reference discloses a double hinge (figure 2:40, 14 and 12) for connecting top cover (figure 2:12) to a cassette (figure 2:14) having opposing side bottom and end walls. The double hinge includes a first horizontally oriented hinge (figure 2:62) interconnected to the end wall (unlabeled end wall of cassette 14 in figure 2) and the top cover (figure 2:12, 62 and 42) dividing the end wall (unlabeled end wall of cassette 14 in figure 2) into upper (figure 2, unlabeled upper part of bottom 14) and lower (figure 2, unlabeled lower part of bottom 14) halves and a second hinge (figure 2:60) oriented in juxtaposed relationship to the first hinge (figure 4 where two unlabeled hinges are in juxtaposed relationship to one another). The Wittrock reference teaches that the hinge allows the top cover to lay flat upon the same surface that the bottom wall also rests upon (figure 2:14 and 12). However, the Wittrock reference fails to teach that the second hinge divides the top cover into two interconnected pieces; however, the Dabich reference, which is in the art of designing lids teaches the use of a double hinge lids where the second hinge (figure 6:30) divides the top cover into two interconnected pieces (figure 6:18 and 20). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the structure of the Wittrock reference by including an additional double hinge closing mechanism that provides two interconnected lids as taught by the Dabich reference since double hinge mechanism results in opening the inner lid with one hand by most users (col.4, lines 27-33).

7. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wittrock et al (U.S.P.N. 5,482,067) in view of Kudla et al (U.S.P.N. 5,215,726).

With respect to claim 23, the Wittrock reference discloses a container made of metal (col.5, lines 19-21), but fails to explicitly teach that the hinge is made out of metal. The Kudla reference teaches that the hinge members are constructed out of stainless steel (col.5, lines 24-26). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the double hinge structure of the Wittrock reference by constructing it with stainless steel since such a metal can be sterilized in an autoclave before re-use resulting in a completely sterilized container (col.5, lines 24-27).

### ***Response to Arguments***

8. Applicant's arguments filed 08/15/2005 have been fully considered but they are not persuasive.

On page 7 of the Remarks section, applicant argues that, "claim 18 has been amended to include the limitations of claims 19, namely that the double hinge comprising a first generally horizontally oriented hinge dividing one of said end walls or one of said side walls into upper and lower halves and a second hinge connecting the upper half of said wall to the top cover so as to permit said top cover to lay flat. The reference cited by the examiner does not teach this feature." The examiner disagrees. The double hinge includes a first horizontally oriented hinge (figure 2:62) dividing the end wall (unlabeled end wall of cassette 14 in figure 2) into upper (figure 2, unlabeled upper part of bottom 14) and lower (figure 2, unlabeled lower part of bottom 14) halves

(i.e., portions) and a second hinge (figure 2:60) connecting the upper half (figure 2, unlabeled upper part of bottom 14) of the end wall to the top cover (figure 2:62, 42 and 60) so as to permit the top cover to lay flat upon the same surface that the bottom wall rests (figure 2:14 and 12).

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The DeCoster (U.S.P.N. 4,723,693) reference teaches the concept of double hinge where the top cover is divided into two interconnecting pieces.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONZER R. CHORBAJI whose telephone number is (571) 272-1271. The examiner can normally be reached on M-F 6:30-3:00.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RICHARD D. CRISPINO can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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12/11/2005

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